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October 2, 2008

J. JOSEPH BAINTON
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BY HAND

Honorable Colleen McMahon
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 640
New York, NY 10007



Re: Petition for Relief of Forfeiture
U.S. v. Israel III, 05 Cr. 1039 (CM);
Bayou Management LLC v. Robert B. Nichols, et al.
08 Civ. 6036 (CM)

Dear Judge McMahon:

We are the attorneys for Robert and Ellen Nichols. We write to request a conference with the Court for the purpose of discussing adjusting the Scheduling Order entered in these consolidated proceedings in light of the following developments. (A copy of that order is enclosed.)

Your Honor will likely recall that at the initial conference I showed you a photograph of a box bearing the seal of the United States Federal Reserve and the serial number SC 3040-20 that Mr. Israel paid Mr. Nichols \$10 Million to locate. I told you that Mr. Nichols never opened the box and that he delivered it to Mr. Israel in a safety deposit facility in London. I have since learned that the name of that facility is the London Safe Deposit Company.

While the Government reports that it is weeks away from producing all of the documents we have requested, their initial production contained what purports to be obligations of the United States Federal Reserve in the aggregate sum of \$250 Billion secured by the deposit in the Atlanta Federal Reserve of 2,500 metric tons of gold. We enclose documents bearing Bates Nos. NICHOLS-USA 000072 through 000082. All of these documents bear the same serial number as appears in the photograph of the box Mr. Nichols obtained for Mr. Israel.

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The Government has also stated in response to Interrogatory No. 14 that in or about July 2008 -- roughly three months after commencement of this proceeding -- the FBI, with the assistance of the City of London Police, retrieved these documents from the London Safe Deposit Company in London, England. The Government has not advised us if they were in the box that Mr. Nichols handed to Mr. Israel in this very same facility or if the Government has the box of which we showed you pictures.

The Government has not provided us with any other information, including what, if anything, it was told about these documents and their location by Sam Israel. It does seem curious that given the length of time that we understand Mr. Israel has been cooperating with the Government that the Government would wait until only a few months ago to reduce to possession what purports to be a \$250 Billion obligation.

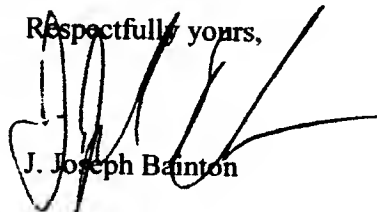
On September 12, 2008, we served the enclosed Rule 30(b)(6) Notice in an attempt to quickly obtain clarification on this \$250 Billion issue. The Government contends that the notice is overbroad, burdensome and oppressive. In making this assertion, the Government has yet to state plainly whether these instruments are authentic. If they are not authentic, then how burdensome could it be to produce a witness to say: "Sam told us he had this stuff and we finally got around to collecting it last summer."

On the other hand, if these instruments are authentic, then this case -- indeed the entire Bayou bankruptcy case -- changes quite dramatically. We would like to get to the bottom of this issue quickly.

The Government's delay in producing documents has forced the parties to defer the commencement of depositions. So even if Your Honor can quickly break the logjam on the \$250 Billion issue, it nonetheless appears some adjustment to the schedule is necessary.

With best regards, I am,

Respectfully yours,



J. Joseph Bainton

Enclosures

cc: Sharon Cohen Levin, Esq. (via first-class mail w/o enclosures)
Barry A. Bohrer, Esq. (via first-class mail w/o enclosures)
Gary J. Mennitt, Esq. (via first-class mail w/o enclosures)

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October 13, 2008

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VIA FACSIMILE

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Bayou Management LLC v. Robert B. Nichols, et al.
08 Civ. 6036 (CM)

Dear Judge McMahon:

We are the attorneys for Robert and Ellen Nichols. We write in response to the letter of the Government dated October 10, 2008 and to oppose the Government's request that the conference scheduled for October 17, 2008 be removed from the Court's calendar. We do not oppose the Government's alternative request that the conference be rescheduled for the week of October 20th. Indeed, much to my pleasant surprise it appears that tomorrow I am commencing what should be close to a three week trial in Supreme Court, Suffolk County, so the conference before Your Honor might have to be delayed a bit more. (As soon as I know for sure whether this trial is actually going to happen, I will report its status to the Court and counsel.)

As we explained in our letter dated October 2, 2008, we seek a conference for the purpose of discussing adjusting the Scheduling Order entered in these consolidated proceedings. Despite the Government's characterization, we do not seek a conference to resolve any discovery disputes that may be determined by the assigned Magistrate Judge. Due to the Government's delay in producing documents and 30(b)(6) witnesses, some adjustment to the discovery schedule seems appropriate. We received only today the first set of FD-302's and have no idea how many more are yet to be produced.

Hon. Colleen McMahon
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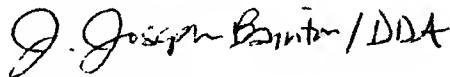
In addition, the Government has refused to produce un-redacted copies of sentencing memoranda filed on behalf of Samuel Israel and Daniel Marino until authorized to do so by Your Honor.

We are not accusing the Government of acting in bad faith, although we do take umbrage at its *ad hominem* attacks in its most recent letter to the Court. We believe as a result of the Government's delays our clients reasonably need more time to prepare for trial and recognize that Your Honor does not encourage counsel to delay bringing matters like this to your attention.

We therefore respectfully renew our request for a conference with the Court.

With best regards, I am,

Respectfully yours,

A handwritten signature in cursive script that reads "J. Joseph Bainton / DDA".

J. Joseph Bainton

cc by facsimile:

Sharon Cohen Levin, Esq.
Jeff Alberts, Esq.
Gary J. Mennitt, Esq.
Jonathan D. Perry, Esq.
Barry A. Bohrer, Esq.

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October 17, 2008

J. JOSEPH BAINTON
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VIA FACSIMILE

Honorable Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Petition for Relief of Forfeiture
U.S. v. Israel III, 05-Cr-1039 (CM);
Bayou Management LLC v. Nichols, et ano., 08-Civ-6036 (CM)

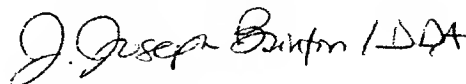
Dear Judge McMahon:

We are the attorneys for Robert B. Nichols and Ellen M. Nichols in the above-referenced consolidated proceedings. We write to report that all parties are available on November 13 and 14, 2008 for a conference that has been adjourned *sine die*. I apologize for the delay, but I am presently engaged in a three week jury trial in Supreme Court, Suffolk County.

We respectfully request that the Court schedule a conference to a date convenient for the Court on November 13 or 14, 2008.

With best regards, I am,

Respectfully yours,



J. Joseph Bainton

cc via facsimile:

Gary J. Mennitt, Esq.
Jonathan D. Perry, Esq.
Sharon Cohen Levin, Esq.
Jeff Alberts, Esq.